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March 5, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

Re: **Ex Parte Presentation**
Program Access Rules
CS Docket No. 97-248

Dear Ms. Salas:

Pursuant to the provisions of Section 1.1206(b) of the Commission's Rules, this is to provide notice to the Commission that Robert Gessner, Vice President of Massillon Cable TV, Inc., Massillon, Ohio, together with Mark J. Palchick, Esq. of this office and undersigned counsel, attended three separate meetings on March 4, 1998, to discuss aspects of the above-referenced proceeding with representatives of the Cable Services Bureau, Chairman Kennard's office, and Commissioner Furchtgott-Roth's office. The meeting at the Cable Services Bureau was attended by John E. Logan, Deputy Chief; John Norton, Assistant Division Chief, Consumer Protection and Competition Division; Royce L. Dickens, Esq. and Kiran Duwadi. Similarly, meetings were held with Susan L. Fox, Senior Legal Advisor to Chairman Kennard, and Helgi C. Walker, Legal Advisor to Commissioner Furchtgott-Roth. An original and one copy of this letter and the accompanying enclosure are being submitted. Copies are being furnished to each of the aforementioned individuals. The following information constitutes the written memorandum required by Section 1.1206(b)(2) of the Commission's Rules summarizing the information discussed during the respective meetings.

In each of the three meetings, a detailed history of Massillon Cable TV, Inc., from the time of its inception to the present, was discussed. A copy of the attached "History of Massillon Cable TV" was furnished to each of the attendees. During the meetings we explained how the cost of cable programming to Massillon Cable TV has increased over the last 20-plus years, how programming contract terms and conditions have interfered with the operator's freedom to make certain programming and other routine business decisions, and how the cost of periodic rebuilds to maintain a state-of-the-art system have affected prices to consumers. The contract provisions discussed included matters relative to excessive rates, restrictions on channel placement, tiering, termination rights, advertising availabilities, carriage and promotion of competing programming. These matters were discussed in the context of how costs to subscribers are affected.

The practice of some broadcast programming being made available to cable operators only under circumstances where the cable operator agrees to carry some other new satellite-delivered cable programming affiliated with the broadcast entity was discussed as well. These channels are carried only because their carriage is a prerequisite to obtaining consent to carry certain local broadcast signals. It was explained that this practice adds to the cost of providing service.

Consistent with the attachment hereto, the cost of rebuilds to continually improve facilities to provide subscribers with good service, also was discussed in each meeting. The cost of upgrades on a per-subscriber basis was explained, as well as how those costs translate into monthly subscriber costs. Also, it was posited that the regulation of cable rates commencing with legislation enacted in 1992, may actually have been a substantial factor in, if not the cause of, increased cable rates. Believing that they could not survive or cope in such an environment, such rate regulation convinced or forced many cable operators to sell their systems. It is believed that the debt service incurred by some operators who purchased such systems, has had a substantial effect on cable rates.

Should any questions arise in connection with this matter, please communicate directly with undersigned counsel.

Very truly yours,

Robert E. Levine

Mark J. Palchick
Robert E. Levine

REL/mcl

cc: Susan L. Fox, Senior Legal Advisor to Chairman Kennard
Helgi C. Walker, Legal Advisor to Commissioner Furchtgott-Roth
John E. Logan, Deputy Chief, Cable Services Bureau
John Norton, Assistant Chief, Consumer Protection and Competition Division
Royce L. Dickens, Esq.
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History of Massillon Cable TV

Creation 1963 - 1968

Richard W. Gessner founded Massillon Cable TV in 1963. After a career in radio and television, Richard began acquiring cable TV franchises in upstate New York for what is now Harron Communications. His experience with cable prompted him to seek a franchise in his wife's hometown of Massillon, Ohio.

The franchise process was long and arduous. After overcoming the initial reluctance of local government, his weekly trips from New York to Ohio exposed him to one of the dirtiest fights for a franchise he had experienced. His sealed bids were opened in advance to give "selected" competitors an opportunity to refine their offer. Political favors were sought and granted. In the final analysis, an honest person was given and honest opportunity to begin the system.

The initial plant was 100 miles within the City limits. The cost was $2,700 per mile. The initial capitalization of $275,000 was provided by local investors and family friends. The latest technology (transistors) was used to provide the best possible system. The state-of-the-art system was capable of delivering 12 channels. The program selection provided improved reception of local and distant (up to 75 miles) channels. The cost for monthly service was $3.95.

After overcoming the problems of initial construction, Massillon Cable TV began, not to flourish, but to enjoy a comfortable pace. Profits from operation were reinvested to extend the system to surrounding areas. Times were lean, but cable service was becoming a more accepted means of receiving television signals.

Middle Ages 1969 – 1978

Dark times fell upon the cable industry in the 1970's. A moratorium was placed upon construction in the largest markets. While this did not stop Massillon Cable from extending service to new customers, the lack of new construction in large metropolitan areas retarded the advancement of technology and the development of new program sources. Our system was unable to develop local programming due to a franchise restriction that prohibited local production. This was done to protect the local movie theaters and radio station.

Even in these difficult times, Massillon Cable sought ways to advance our technology. We pioneered distance learning by establishing a television studio in our local schools. Math and Music were taught via cable in the 1960's. We overcame the Local Origination ban by obtaining funding for a Telecommunications class at our local High School. This has grown to a two-year vocational class that graduates dozens of highly qualified students each year. They have hundreds of hours of experience in front of and behind the cameras in live and taped production of television programs and commercials. We also pre-dated Cable in the Classroom by 30 years. We have wired every single room of every school for coax and provided free service. In fact, we have wired each of them several times as needs and technology have changed. We have never charged a school anything for these efforts, despite the fact that we have spent in excess of $150,000 on these projects. We also pioneered the use of cable TV for emergency alert. Our "homegrown" alert system placed an audio and video message on all channels in 1979.

The pace was steady, but very slow. It was clear that change was coming when HBO launched in 1975 so Massillon Cable started planning to improve and upgrade the system. Customer-billing operations were computerized, telephone service improved and plans were made for a new system. Our first satellite networks launched to enthusiastic customers. ESPN joined the Basic lineup. HBO, WTBS and some now defunct satellite services appeared as a premium package.

MORE NEW SERVICES WERE BEING CREATED, SO A NEW SYSTEM WAS NEEDED. THE COST OF CONSTRUCTION HAD DOUBLED TO $5,500 A MILE. BUT WE WERE PREPARED. WE HAD LITERALLY SAVED ALL OF THE MONEY DESIGNATED AS DEPRECIATION ON OUR INCOME STATEMENTS. IN FACT, WE HAD TO FIGHT TOOTH AND NAIL THROUGH EVERY IRS AUDIT TO PROVE THAT WE NEEDED THE MONEY FOR FUTURE EXPANSION. THIS FIGHT CONTINUES TODAY.

Renaissance 1979 - 1988

As the 70's ended, Massillon Cable TV and the cable TV industry bloomed. The moratorium on construction in metropolitan networks was lifted. Franchising and construction in nearby Cleveland resulted in widespread knowledge and renewed interest in cable TV.

As the '80's began, new networks burst upon the nation. Consumers demanded CNN, Nickelodeon, MTV, Lifetime, Discovery, USA, C-SPAN and dozens of other networks in record numbers. The introduction of new program services unleashed new demand for cable service. We built hundreds of miles of new plant in the early 1980's.

In less than one short decade, we saw the need to rebuild our system again. Our 1979/80 rebuild had been to 30 channels (270 MHz). By the mid-1980's, we were building new plant to 54 channels (400 MHz). We started a rebuild in 1988 and began automatically receiving 60 channel (450 MHz) equipment because the 400 MHz gear was already out of production. Fiber optic cable was being tested and used. Futurist predicted 500 channels, digital spectrum use and video-on-demand.

The 1980's also saw program services' rise to power. At the beginning of the decade, satellite program services were inexpensive additions to cable systems. The additional revenue generated by new customers could justify them. By the end of the decade, new subscriber growth had slowed. New networks no longer represented new customers. More importantly, program services had decided to aggressively pursue new, often-expensive programming and to expand their turf by launching additional networks. The network-affiliate relationship in the cable industry is significantly different than broadcasting. Due to the affiliate fees, satellite networks do not shoulder the risk of excessive spending for programming. They know that they can pursue expensive programming and higher ratings with little risk because they are spending the affiliates' money. Affiliates have little recourse; either pay the higher fee or drop the network.

Program services view my spectrum as their property. While I must pay for the programming, I have no control. Any effort to change is met with tremendous force. Dropping a network could bring a dramatic reaction from both customers and the network. A perfect case in point was MTV's reaction to being dropped in New Jersey. The network conducted a huge public relations effort directed against the operator. In addition to all forms of mass media, MTV actually brought popular music groups to the area for rallies billed as free "concerts." The operator was forced to relent.

Program services also began widespread use of large volume discounts to MSO's to encourage distribution. This led to the consolidation of the industry because the difference in program *expense provided the extra revenue needed to acquire small systems. It also had the unintended consequence of vertically integrating the industry. As the MSO's bought small systems, the programmers revenue per subscriber shrank. The MSO's were there to "help."*

The decade ended with a rebuilding of the system. Construction costs had doubled again to over $10,000 per mile. We had, once again, diligently saved our depreciation and profits in order to rebuild without incurring debt. Our service offering had expanded to over 50 channels.

Age of Uncertainty 1989 – 1998

The 1990's have been a decade of conflict. On the local level, we enjoy success at all levels. Our plant is modern and efficient. Our prices are lower than neighboring systems. Our service offerings are broad and varied. Our customers, political leaders and community-at-large are pleased with our conduct. However, at the national level, our customers are encouraged to despise us. Consumer groups and national leaders constantly attack all cable systems as scheming monopolists hell-bent to cheat everyone as often as possible. A series of on-again, off-again laws force us to make unpopular changes at a rapid pace.

The program services' rise to power has become complete. Armed with retransmission consent, broadcast networks launch unwanted new services that displace other networks and increase costs to consumers. Existing networks rapidly raise rates, create ever more restrictive contracts and force new networks upon us. Any resistance is futile. The networks' reaction: do what we say or we will shut off your service literally on a moment's notice.

Early in the decade we recognized that our subscriber growth would, of necessity, slow or actually reverse due to competition. We knew we would need to develop new revenue streams to be successful. Our improvement plans in the early 1990's were put on hold due to the constant fluctuations in regulations.

Once again, the decade ends with rebuilding. We are in the middle of another system rebuild. While the total costs are unknown at this time, our estimates show that the costs have doubled again, to almost $20,000 per mile. We have already spent $16,000,000 and are only half-complete. As in the past, we saved our depreciation expenses and are reinvesting our past profits to improve the system. Our service offering has expanded to 85 video channels and 31 audio channels on a modern two-way, hybrid fiber/coax system. In March we will start testing Internet access without computers, modems or phone lines. Coaxial modem introduction will follow later this year.

Our greatest threat lies to the East, in Washington. Once again, our national leaders are beating the "hate cable" war drums. The worn shouts of "monopoly," "price gouging," "haves and have-nots" are once again paraded in front of a media that loves a mud fight. These hyperboles do not apply to all systems but they have a universal impact. As in the early '90's, we cannot continue to spend money to improve our systems in an atmosphere of uncertainty. The threats of re-reregulation will stop the progress of all improvement efforts. More importantly, they will undoubtedly end in the same type of micro management that is impossible to administer.

Let There Be (Laser) Light 2000+

Competition is not a new concept to Massillon Cable TV. We have competed in three direct overbuild situations. We know the risks, the costs and the generally unappealing rewards. We continue to compete; with DBS, one active overbuild area, one threatening overbuilder (Ameritech) and (with our Internet business) multiple providers of similar services. The federal government has effectively eliminated any advantage over DBS by stripping us of the exclusive programming we paid to develop. Their market share grows steadily. Our overbuilder constantly looks for any opportunity to capture new customers. It seems only a matter of time before Ameritech descends from major to secondary markets. The emerging market for residential and commercial Internet service is flooded with operators and new entrants every day.

Our hope for the future lies in the technology we are installing today. Advanced fiber technology, coupled with computers, vast coaxial bandwidth, an excellent reputation for service and good customer relations will allow us to flourish in the face of larger, better financed or governmentally-preferred entities. But, we cannot survive if the environment is constantly changing.

Maintaining technology in a rapidly changing industry is expensive. We have spent millions of dollars to remain technologically current, but only when it becomes economically reasonable. In this manner, technological cost is driven by consumer demand for new products and they understand that relationship. However, some of our costs have been beyond our control. Abusive contracts by program suppliers drive our costs higher. The "ransom channels" created by retransmission consent have contributed to increases as well.

We are willing to face the dangers of competition and the hazards of a high technology industry. To combine these with the uncertainty of an ever-shifting regulatory landscape, however, is more than most will bear. As in the early 1990's, excessive regulation or constantly changing regulation will slow our efforts or bring them to a halt.

History of Construction Costs

Year	Type	Cost per per sub	Subs	Project Cost
1965	Initial Construction	$75.00	3,500	270,000
1979	Electronic Upgrade	175.00	19,000	3,350,000
1989	Complete Rebuild	240.00	32,650	7,850,000
1997	Electronic/Fiber Upgrade	465.00	44,500	20,700,000